

Revised 05/01 WDN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

CV-00069 E(F)

FORM TO BE USED IN FILING A CIVIL COMPLAINT IN FEDERAL COURT
(Non-Prisoner Context)

1. CAPTION OF ACTION

A. **Full Name of Plaintiff:** NOTE: If more than one plaintiff files this action and seeks in forma pauperis status, each plaintiff must submit an in forma pauperis application or the only plaintiff to be considered will be the plaintiff who filed an application.

Charles Lyman Barrett

-VS-

B. **Full Name(s) of Defendant(s)** NOTE: Pursuant to Fed.R.Civ.P. 10(a), the names of all parties must appear in the caption. The court may not consider a claim against anyone not identified in this section as a defendant. Add a separate sheet, if necessary.

- | | |
|-------------------------|--------------------------|
| 1. Town of Genesee, Inc | 4. Michael Faulkner (CM) |
| 2. Luther Brown (Sup) | 5. Josh Bluhm (CM) |
| 3. Alyn Holcomb (CM) | 6. Jill Roulo (CM) |

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U.S. DISTRICT COURT
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2. STATEMENT OF JURISDICTION, VENUE and NATURE OF SUIT

All of these sections **MUST** be answered

Identify the basis for federal Court jurisdiction over your claim, such as that the United States government is a party to the action, all the parties reside in different states and therefore you claim diversity jurisdiction, or the claim presents a federal question or arises under federal law.

A. Basis of Jurisdiction in Federal Court: Claim arises under federal law.

State why the Western District of New York is the proper venue for this action, such as that your claim arises in or the defendant resides in the 17 westernmost counties of New York State.

B. Reason for Venue in the Western District: Both plaintiff and defendant are located in Allegany County, New York

Identify the nature of this action, such as that it is a civil rights claim, a personal injury or personal property (tort) claim, a property rights claim, or whatever it is.

C. Nature of Suit: Property rights (copyright violation) claim

CLB

3. PARTIES TO THIS ACTION

PLAINTIFF'S INFORMATION NOTE: *To list additional plaintiffs, use this format on another sheet of paper.*

Name of First Plaintiff: Charles Lyman Barrett

Present Address: 254 Main Street, Po Box 5, Ceres, New York 14721

Name of Second Plaintiff: _____

Present Address: _____

DEFENDANT'S INFORMATION NOTE: *To list additional defendants, use this format on another sheet of paper.*

Name of First Defendant: Town of Genesee, Inc

Official Position of Defendant (if relevant): _____

Address of Defendant: 8246 Main Street, Po Box 40, Little Genesee,
New York 14754

Name of Second Defendant: _____

Official Position of Defendant (if relevant): _____

Address of Defendant: _____

Name of Third Defendant: _____

Official Position of Defendant (if relevant): _____

Address of Defendant: _____

4. PREVIOUS LAWSUITS IN STATE AND FEDERAL COURT

A. Have you begun any other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes _____ No XX

If Yes, complete the next section. NOTE: *If you have brought more than one lawsuit dealing with the same facts as this action, use this format to describe the other action(s) on another sheet of paper.*

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s): _____

CLB

Defendant(s): _____

2. Court (if federal court, name the district; if state court, name the county): _____

3. Docket or Index Number: _____

4. Name of Judge to whom case was assigned: _____

5. The approximate date the action was filed: _____

6. What was the disposition of the case?

Is it still pending? Yes _____ No _____

If not, give the approximate date it was resolved: _____

Disposition (check those statements which apply):

_____ Dismissed (check the statement which indicates why it was dismissed):

_____ By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;

_____ By court for failure to prosecute, pay filing fee or otherwise respond to a court order;

_____ By court due to your voluntary withdrawal of claim;

_____ Judgment upon motion or after trial entered for

_____ plaintiff

_____ defendant.

5. STATEMENT OF CLAIM

Please note that it is not enough to just list the ground(s) for your action. You must include a statement of the facts which you believe support each of your claims. In other words, just tell the story of what happened and do not use legal jargon.

Fed.R.Civ.P. 8(a) states that a pleading must contain "a short and plain statement of the claim showing that the pleader is entitled to relief." "The function of pleadings under the Federal Rules is to give fair notice of the claim asserted. Fair notice is that which will enable the adverse party to answer and prepare for trial, allow the application of res judicata, and identify the nature of the case so it may be assigned the proper form of trial." Simmons v. Abruzzo, 49 F.3d 83, 86 (2d Cir. 1995).

Fed.R.Civ.P. 10(b) states that "[a]ll averments of claim ... shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a single set of circumstances."

A. FIRST CLAIM: On (date of the incident) Nov and Dec 2005

defendant (give the name and (if relevant) the position held of each defendant involved in this incident) _____

The Genesee Town Board, Clara Robinson (Sup), Douglas Plotz (CM), Alyn Holcomb (CM), Michael Faulkner (CM), Jill Roulo (CM)

CLB

did the following to me (briefly state what each defendant named above did): At the Nov and Dec 2005 town board meetings the board refused to pay, even at a reduced price, for copies of the drawings of Wells Cemetery and section "C" of the West Genesee Cemetery which are in their possession. The Wells Cem drawing was originally LOANED to (Sup) Sherman who was having trouble locating a grave and asked to borrow it. The West Gen Cem drawing was originally LOANED to Sisson, digger, who LOANED it to the town. Town has no legal right to have or copy these maps.

The federal basis for this claim is: 17 USC sections 102 (a)(5), 106 (1), 201 (a), 302 (a), 501 (a), 503 (a), 504 (a)(b)(c), 505, US Copyright Off cir 1

State briefly **exactly** what you want the Court to do for you. *Make no legal arguments and cite no cases or statutes:*
Order the Town of Genesee to pay for above drawings at the same rate as was paid by other towns and private cemeteries: \$1000 per acre. Wells Cem dwg=\$2000 & Sec "C" West Gen dwg=\$500 plus costs

B. SECOND CLAIM: On (date of the incident) After Matt (new digger) took over,
defendant (give the name and (if relevant) position held of each defendant involved in this incident) presently unknown official (John or Jane Doe)

did the following to me (briefly state what each defendant named above did): Unknown Genesee town official either had a copy made from the original or gave the original to Matt Faulkner to make a copy knowing that the purpose of getting the map was to make a copy as he was the new grave digger. Plaintiff observed copy in Matts possession at Wells Cemetery as he prepared to dig grave for Mrs. Grantier. Matt will be subpoenaed to confirm facts.

The federal basis for this claim is: 17 USC sections 102 (a)(5), 106 (1), 201 (a), 302 (a), 501 (a), 503 (a), 504 (a)(b)(c), 505, US Copyright Off cir 1

State briefly **exactly** what you want the Court to do for you. *Make no legal arguments and cite no cases or statutes:*
Order the Town of Genesee to pay for above drawings at the same rate as was paid by other towns and private cemeteries: \$1000 per acre. Wells Cem dwg=\$2000 & Sec "C" West Gen dwg=\$500 plus costs

If you have additional claims, use the above format to set them out on additional sheets of paper.

6. SUMMARY OF RELIEF SOUGHT

Summarize the relief requested by you in each statement of claim above.

To be paid for these two sets of drawings at the same rate as paid by other town ships and private cemeteries, of \$1000 per acre. And if this complaint goes to trial, receive the same ruling plus return of any drawings by me in the town's possession and all copies made by them for others.

Do you want a jury trial? Yes XX No

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 30 JAN 2006
(date)

NOTE: *Each plaintiff must sign this complaint and ~~must~~ also sign all subsequent papers filed with the Court.*

Charles A. Barrett

Signature(s) of Plaintiff(s)